

GRTSTF.011A

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Weatherill et al.) Group Art Unit 3654
Appl. No. : 09/777,420) CERTIFICATE OF FAX TRANSMISSION
Filed : February 6, 2001) I hereby certify that this correspondence and
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DECORATIVE ACCESS) via to Examiner Nguyen, Fax No. (703) 872-
PANEL) 9327 of the USPTO on the date shown below:
Examiner : John Q. Nguyen)
October 30, 2002
(Date)
Samuel S. Gill
Samuel S. Gill, Reg. No. 42,578

RESPONSE AND STATEMENT OF COMMON OWNERSHIP

United States Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202

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Official

GROUP 3600

Dear Sir:

In response to the Advisory Action mailed October 7, 2002, please consider the following remarks:

In the Final Office Action (mailed August 6, 2002) the Examiner rejected all of the pending claims under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,279,848 to Mead, Jr. ("Mead") in view of U.S. Patent No. 5,988,207 to Kownacki et al. In a Response filed September 19, 2002, Applicants asserted that Mead could not be properly cited against the present application because both the invention of the application and the invention of Mead were commonly owned, and Mead qualifies as prior art under 35 U.S.C. § 102(e).

The Examiner has indicated that Applicants have not provided sufficient evidence to establish common ownership of Mead and the above-mentioned application. Applicants respectfully disagree. M.P.E.P. 706.02(1)(2) states in relevant part that Applicants can establish common ownership by submitting a "statement concerning common ownership [which] should

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be clear and conspicuous [and]...[a]pplicants may, but are not required to submit further evidence....” An example of such a statement is provided as follows:

“Application X and Patent A were, at the time of the invention of Application X was made, owned by Company Z.”

Applicants submit that the Response filed September 19, 2002 met the requirements of M.P.E.P. 706.02(1)(2).

One of Applicants’ representatives discussed the sufficiency of evidence with the Examiner during a phone call on October 29, 2002. During this call, the Applicants’ representative maintained that the Response mailed September 19, 2002 adequately established common ownership. However, in order to allay the Examiner’s concerns, it was agreed that if Applicants submitted a separate statement of common ownership, then the evidentiary requirement would be met. Thus, in order to expedite prosecution, Applicants offer the following as evidence of common ownership under M.P.E.P. 706.02(1)(2): **The inventions of U.S. Application No. 09/777,420 and U.S. Patent No. 6,279,848 were, at the time that the invention of Application No. 09/777,420 was made, owned by Great Stuff, Inc. of San Leandro, CA.**

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In view of the foregoing remarks, Applicants respectfully submit that common ownership of the present application and Mead has been established, and that Mead cannot be cited against the present application in an obviousness rejection. Accordingly, Applicants request that the present application be allowed. If, however, some issue remains that the Examiner feels can be addressed by Examiner's amendment, the Examiner is cordially invited to call the undersigned for authorization.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 10/30/02

By: Sanjivpal S. Gill
Sanjivpal S. Gill
Registration No. 42,578
Attorney of Record
Customer No. 20,995
(415) 954-4114

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